

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-1544V

UNPUBLISHED

REBECA A. NOLAN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 16, 2019

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Kathryn Lee Bruns, Faraci Lange, LLP, Rochester, NY, for petitioner.

Lisa Ann Watts, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On October 5, 2018, Rebeca A. Nolan filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that she suffered a left shoulder injury related to vaccine administration (“SIRVA”), a Table Injury, due to an influenza (“flu”) vaccine she received on October 14, 2015. Petition at ¶¶ 1-24. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 11, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On December 13, 2019, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$97,500.00 for her past and future pain and suffering. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$97,500.00, in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
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REBECA A. NOLAN,

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SECRETARY OF HEALTH AND
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Respondent.

No. 18-1544V

Chief Special Master Corcoran

ECF-SPU

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 5, 2018, Rebeca A. Nolan (“petitioner”) filed a petition for vaccine injury compensation alleging that she suffered a left shoulder injury related to vaccine administration (“SIRVA”), a Table injury, following receipt of an influenza (“flu”) vaccination administered on October 14, 2015. Respondent filed his Rule 4(c) Report conceding entitlement to compensation on October 9, 2019. The Chief Special Master issued a Ruling on Entitlement on October 11, 2019.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded a total of \$97,500.00 for her past and future pain and suffering. This represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ Petitioner agrees.

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future damages.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$97,500.00 in the form of a check payable to petitioner.²

Petitioner agrees.

Respectfully submitted,

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s/Lisa A. Watts
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DATED: December 13, 2019

² Petitioner is a competent adult. Proof of guardianship is not required in this case.